

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. 9510575
)	
Application of Linda Chester for)	
Authority to Construct and Operate a)	
38.6-40.6 GHz Microwave Radio)	
Service Network in San Antonio, TX)	

MEMORANDUM OPINION AND ORDER

Adopted: April 19, 2000

Released: May 4, 2000

Before the Commission:

1. The Commission has before it an Application for Review filed by Linda Chester (Chester) on March 10, 2000.¹ Chester requests reconsideration of a January 31, 2000, letter by the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau dismissing Chester's September 13, 1999, Petition for Reconsideration of the above-captioned application for authorization to provide service in the 38.6 to 40.0 GHz (39 GHz) band.²

2. We have analyzed the Application for Review and find that the Commission staff properly decided the matters raised. The Commission has established and affirmed a processing policy concerning 39 GHz channels that includes the dismissal of (a) applications that failed to meet the thirty-day public notice requirement as of November 13, 1995; (b) all new applications, major modification applications and amendments filed on or after November 13, 1995; and (c) applications whose mutual exclusivity was not resolved by December 15, 1995 and amendments resolving mutual exclusivity that were filed on or after December 15, 1995.³ In addition, the Commission's Rules provide for the dismissal of mutually exclusive applications and late-filed competing applications.⁴ Therefore, we uphold the staff decision for the reasons stated therein. There is no reason to disturb it.

¹ Linda Chester Application for Review (filed Mar. 10, 2000).

² On March 27, 2000, Ronna L. Sauro filed a Motion for Extension of Time to file a response to the Application for Review. We now dismiss the motion as moot.

³ See Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Report and Order and Second Notice of Proposed Rulemaking*, ET Docket No. 95-183, 12 FCC Rcd 18600, 18639-45 ¶¶ 83-97 (1997); *aff'd* Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Memorandum Opinion and Order*, 14 FCC Rcd 12428, 12440-51 ¶¶ 19-44 (1999).

⁴ See 47 C.F.R. § 21.31 (b)(2)(i) (1995); 47 C.F.R. § 101.45(b)(2)(i) (disposition of mutually exclusive applications). See also 47 C.F.R. § 1.934 (dismissal of defective applications).

3. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(5), and Section 1.115(g) of the Commission's Rules, 47 C.F.R. § 1.115, the Application for Review filed by Linda Chester on March 10, 2000, IS DENIED.

4. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.46 of the Commission's Rules, 47 C.F.R. § 1.46, the Motion for Extension of Time filed by Ronna L. Sauro on March 27, 2000, IS DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary